

MINUTES OF HARRISONBURG PLANNING COMMISSION

February 11, 2009

The Harrisonburg Planning Commission held its regular meeting on Wednesday, February 11, 2009, at 7:00 p.m. in the City Council Chambers, 409 South Main Street.

Members present: Richard Baugh, Jared Burden, Charles Chenault, Muawia Da'Mes, Alan Finks, and J.M. Snell.

Members absent: Bill Jones

Also present: Stacy Turner, Director of Planning and Community Development; Adam Fletcher, Senior Planner; Alison Banks, Planner and Secretary.

Chairman Burden called the meeting to order and determined a quorum with six of seven members in attendance. He then asked for review and approval of the minutes from the January 14, 2009 Planning Commission meeting.

Mr. Snell moved to approve the minutes from the January 14, 2009 meeting.

Mr. Finks seconded the motion.

All voted in favor of approving the minutes. (6-0)

New Business

Rezoning – 120 West Wolfe Street (WRockStreet, LLC)

Chairman Burden read the first item of business and asked for staff to review.

Mrs. Banks said the Comprehensive Plan designates this area as Mixed Use Development. This designation includes both existing and proposed new mixed use areas. These areas are intended to combine residential and non-residential uses in planned neighborhoods where the different uses are finely mixed instead of separated. These areas are prime candidates for “live-work” and traditional neighborhood developments. Live-work developments combine residential and office / service uses allowing people to both live and work in the same area.

The following land uses are located on and adjacent to the property:

Site: Carwash, empty warehouse building and vacant lands, zoned M-1

North: Vacant lands and non-conforming dwellings, zoned M-1

East: Across railroad tracks, L&S Diner and professional offices, zoned B-1

South: Across West Wolfe Street, a repair shop, zoned M-1

West: Non-conforming dwelling, zoned M-1 and dwellings, zoned R-3

Planning Commission originally reviewed a larger scale of this request in June 2008. That request was to rezone a 1.009+/- acre site that incorporated the two parcels described in this application and two other adjoining lots; one of which fronted along West Rock Street. The first request proposed to keep the existing warehouse building along West Wolfe Street, renovate it for use as a commercial building, and to attach a three story apartment building to the north of the renovated structure. Parking would have been provided along the side and rear of the building with an

additional entrance on West Rock Street. Staff recommended denial of the rezoning request citing concerns that the proposed apartment style of development did not meet the quality or character of the B-1, Central Business District and it was not compatible to the surrounding uses. Planning Commission also recommended denial of the request with a 5-0 vote. The case was on schedule for the July 8, 2008, City Council meeting; however, the applicant withdrew the request prior to the public hearing.

In July 2008, the applicant submitted revised proffers that were not discussed during the Planning Commission public hearing; due to the requirements specified in Section 10-3-123 (c) of the Zoning Ordinance, a new public hearing was scheduled for the August Planning Commission meeting. In preparation of the August meeting, the applicant tightened some of the earlier proffers to include limiting the occupancy of the residential units to not exceed more than two unrelated persons per unit while also limiting the residential units to not exceed 20 and to limit the commercial space to not exceed 4,000 square feet. The revised proffers were appreciated, yet they did not change staff's recommendation. The applicant tabled this request prior to the Planning Commission public hearing.

The applicant is now requesting to rezone two parcels totaling .52 +/- acres from M-1, General Industrial District to B-1C, Central Business District Conditional. The site is located along West Wolfe Street directly east of the Norfolk Southern rail lines. The property has an inoperative carwash and an empty warehouse building. If rezoned, the applicant desires to demolish the existing structures and to construct a mixed use building containing commercial and residential uses. Several proffers were submitted with the rezoning request; they are as follows:

1. The site Plan as provided in Exhibit A is proffered as to general layout, approximate square footage of the building and dedicated parking. The amount of commercial space will be up to 2,816 sq. ft., and the amount of residential space will be up to 6,570 sq. ft. The number of residential units will not exceed 7. The number of bedrooms will not exceed 9. The building will be Mixed Use.
2. The occupancy of each residential unit will not exceed a single family or two unrelated persons per unit.
3. Parking for residential units will be one space per bedroom. Parking for commercial space will be one space for each 300 sq. ft.
4. Use Restrictions. The following uses as delineated in Harrisonburg's Zoning Ordinance, Article P. B-1 Central Business District, 10-3-84 shall be permitted on the Property:
 - a. Retail stores, convenience shops, personal service establishments, restaurants, food and drug stores;
 - b. Governmental, business, professional offices and financial institutions;
 - c. Hotels, motels, and buildings used for dwelling units, CBD, as defined under Article F, except that such occupancy may be superseded by building code regulations;
 - d. Theaters, community rooms, museums and galleries and other places of assembly for the purpose of entertainment or education;
 - e. Religious, educational, charitable and benevolent institutional uses which do not provide housing facilities;
 - f. General service or repair shops, when not employing more than ten (10) persons on the premises in a single shift (not including persons whose principal duties are off the premises) and providing that all storage and activities are conducted within a building;

- g. Accessory uses incidental to any permitted uses which are attached to or within the principal building.
- 5. Applications will be made for all Special Uses where necessary.
- 6. Buffer. A 6' fence of one type shown in Exhibit B will be placed on the west boundary of the property.
- 7. Landscaping will include a minimum of two (2) deciduous trees or planters and a minimum of ten (10) bushes in locations as shown on the conceptual plan.
- 8. The buildings will have a brick façade on the south side of the building facing Wolfe Street and the east side facing the railroad, and no vinyl siding will be used on any part of the façade. A brick walkway or brick stamped decorative concrete will be provided on the south side of the building where elevation permits. The style of the building will be esthetically similar to Exhibit C. A bicycle rack will be located on the property.

Staff has worked closely with the applicant since the earlier rezoning request. The plan that is submitted with this application shows more quality and character of the B-1, Central Business District than the previous requests. The proposed building, which fronts directly on West Wolfe Street, is planned for commercial uses on the first floor at street level, with parking located in the rear. The applicant has proffered a decorative brick or brick stamped sidewalk, a bicycle rack, and landscaping; all amenities that encourage pedestrian traffic. The innovative building type design which addresses the street and the minimal visual impact of the parking which is placed to the rear of the building incorporates features of the proposed Mixed Use Planned Community District that is currently under review.

The applicant has specifically proffered that the building will be mixed use. Although the applicant intends to have first floor commercial units and then residential units on the above floors, it does not limit the building from having residential units on the first floor or limit commercial units to the first floor. Staff has no reservations about this arrangement. Occupancy has also been proffered to a family or no more than two unrelated persons per dwelling; with no more than seven dwelling units and no more than nine bedrooms.

Staff has concerns with the type of entrance that should be provided. Currently, there is a drop inlet and a railroad signal pole located directly adjacent to the east side of the entrance, between the site and the railroad tracks. The entrance should not disrupt the function of the drop inlet or the signal pole. Ultimately this issue would need to be resolved during the comprehensive site plan review process and may require a different entrance design than what is shown on this site plan.

Other proffers offered by the applicant include a six foot fence that will look like one of the designs in Exhibit B, along the western boundary line, to buffer the site from adjacent dwellings; landscaping bushes as shown, two deciduous trees or planters; a brick façade on the south and east side of the building with no vinyl siding, and in a style aesthetically similar to that shown in Exhibit C.

Staff is in support of this rezoning request. The revised proffers have answered concerns that staff previously had regarding the style of the development. The property is designated as Mixed Use Development within the Comprehensive Plan; the design and layout proffered with this request shares the characteristics of the downtown Central Business District, while still remaining compatible with the surrounding neighborhood. The Comprehensive Plan also designates the site as part of the Downtown Revitalization Area and the proposed redevelopment provides for a viable

mixed use, rather than the existing vacant buildings and other unsightly property characteristics. A favorable recommendation is supported by staff.

Chairman Burden asked if there were any questions for staff.

Mr. Finks asked for clarification of the total number of bedrooms that could possibly be located on the site.

Mrs. Banks replied there could be up to nine bedrooms.

Chairman Burden asked if there were any further questions for staff. Hearing none, he opened the public hearing and asked the applicant or applicant's representative to speak.

Mr. Richard Johnson with Blackwell Engineering and representing the developers said we appreciate the help and guidance we got from the planning staff. It has been a long process, but the product we have at this point speaks well for itself. I do not have anything to add to the presentation; but if you have any questions I would be glad to address them.

Chairman Burden asked if there were any questions. Hearing none, he asked if there was anyone else with the applicant that would like to speak. Hearing none, he asked if there was anyone wishing to speak in favor of the rezoning request. Hearing none, he asked if there was anyone wishing to speak opposed to the request. Hearing none, he closed the public hearing and asked if there were any comments or discussion from Planning Commission.

Mr. Finks said there is nothing with this request that I disagree with, it looks like an idea that will be a plus for this neighborhood and this area. I make a motion to approve it.

Mr. Baugh seconded the motion.

Chairman Burden asked if there was any further discussion.

Mr. Da'Mes said he is very excited to see this plan before us. I think it embodies much of what I would like to see in our future implementation of mixed use. Many of the proffers are well received and appreciated in terms of the sidewalk, brick, and making it very pedestrian friendly. The only concern I might have, and staff has pointed it out, is the entrance itself. It is in close proximity to the railroad track and obviously there could be concerns; but as staff pointed out this will be reviewed at a later time.

Mr. Baugh said he cannot remember when Planning Commission has had one of these rezoning requests that he will enjoy voting for as much as he will enjoy voting for this one. I just think this is a wonderful example of what I hope to see us do more of, and that is to not be as quick as we might be at times when a developer only gives us sixty or seventy percent of what we want. Let's be firm with what we want to see in a project and then when we see what we are looking for we can be pleased about our efforts. This project has all the earmarks of something that should be a successful development. I have no reason to think it would not be a very positive development for the City and for the surrounding neighborhood.

Chairman Burden said the progression of the plan from last summer to now is impressive. This seems to be the sort of thing we need. He then called for a voice vote on the motion to approve the rezoning request from M-1 to B-1C.

All voted in favor of the motion (6-0). Chairman Burden said this will move forward to City Council on March 10, 2009 with a favorable recommendation.

Rezoning – 181 South Liberty Street (Old Police Department Lot)

Chairman Burden read the request and asked for staff to review.

Mr. Fletcher said the Comprehensive Plan designates this area as Public / Semi-Public. This designation includes both existing and proposed public and semi-public use. It includes lands owned or leased by the Commonwealth of Virginia (except for institutions of higher learning), the federal government, the City of Harrisonburg, and other governmental organizations. Examples of uses included in this category are public schools, libraries, City Hall and City administrative and support facilities.

The following land uses are located on and adjacent to the property:

- Site: Old Police Department Building, zoned M-1
- North: Across West Water Street, Rockingham Regional Jail, zoned, B-1
- East: Across South Liberty Street, city-owned parking facility, zoned B-1
- South: Merle Norman retail establishment, zoned B-1 and vacant industrial building, zoned M-1
- West: Across Norfolk Southern railroad, parking lot and a non-conforming residential unit, zoned M-1, and professional office uses, zoned R-3C

Rosetta Stone LTD is requesting to rezone five lots that were previously owned by the City of Harrisonburg, from M-1, General Industrial District to B-1, Central Business District. The properties are located along West Water Street and South Liberty Street and include a parking lot and a structure that is non-conforming to setback regulations. The applicant is in the process of renovating the structure into office and business space. If rezoned, the structure would be in compliance to setback regulations and the planned uses would be permitted by right.

In December of 1969, the City of Harrisonburg purchased the properties from Rockingham Construction Company. At that time, the property was improved with the Valley Creamery building, a poultry plant building, a garage, an old store building, and two dwellings. Over the years, the garage, the store structure, and the two dwellings were demolished. The City used the Valley Creamery building as the Police Department headquarters while the poultry plant structure was used as a storage and training warehouse. The Police Department used the facility until 2005 when they moved into Harrison Plaza at the corner of North Main Street and Elizabeth Street. The Police Department headquarters building has been empty since that time. Recently, the storage and warehouse structure was demolished in preparation of the sale of the property to Rosetta Stone LTD.

A representative from Rosetta Stone LTD said the company plans to renovate the building into open cubicle space intended for business offices. They also plan to put in additional parking for their employees and to stripe the parking lot to facilitate pedestrian movement on the property. Most likely the landscaping on the property will remain as it exists today except for a planned patio area in the back, southwestern corner where the storage and warehouse facility was located.

Staff has no reservations about this rezoning application. To begin with, the subject property falls within the Downtown Revitalization Area as designated by the Comprehensive Plan; rezoning this property demonstrates a cooperative approach that should assist the ongoing efforts to revitalize and rehabilitate our downtown area. It is estimated that Rosetta Stone LTD will invest at least \$500,000 into improving the existing structure. This expansion will allow them to create one hundred,

\$50,000 salaried positions; therefore, rezoning this property would also show further support for the downtown area as a core business district while offering an example of the successfulness of a downtown business. Furthermore, although the Comprehensive Plan designates this property and nearby properties as Public/Semi-Public (which typically means they are either currently owned or leased by government agencies), many of the surrounding properties are designated as Mixed Use Development Areas; uses that fit into this designation are most closely associated with those found in the B-1 district.

Staff supports a favorable recommendation to City Council.

Chairman Burden asked if there were any questions for staff. Hearing none, he opened the public hearing and asked if the applicant or applicant's representative would like to speak.

Mr. Eric Reese the facility manager for Rosetta Stone said he has nothing to add regarding the request and is open to any questions the Planning Commissioner's may have.

Mr. Da'Mes said he drove by the site on his way to Planning Commission tonight and noticed that the parking lot is quite dark in that area. I would think that being a call center you would have employees on the first shift and then there would be an evening shift or something throughout the night. Are there any plans to add lighting to the parking lot?

Mr. Reese said yes, with our current parking lot we have gone to great lengths to make sure the employees are safe. We will do the necessary means to make certain this parking lot is lighted.

Mr. Da'Mes asked do you know what is proposed.

Mr. Reese said as of now we are looking at lighting along the outside of the structure and something in the back of the lot at the picnic area.

Chairman Burden asked if they were planning a twenty-four hour call center operation.

Mr. Reese said no, probably the latest would be nine o'clock in the evening.

Chairman Burden asked if there were any further questions. Hearing none, he asked if there was anyone else with the applicant that would like to speak. Hearing none, he asked if there was anyone wishing to speak in favor of the rezoning request. Hearing none, he asked if there was anyone wishing to speak opposed to the request. Hearing none, he closed the public hearing and asked if there were any comments or discussion from Planning Commission.

Mr. Finks moved to approve the rezoning request.

Mr. Chenault seconded the motion.

Chairman Burden asked if there was any further discussion.

Mr. Da'Mes said on the Harrisonburg Blog there is a lot of discussion regarding the acquisition of the old police station by Rosetta Stone and the deal which is seen as mutually beneficial to the City as well as Rosetta Stone. My input in analyzing the transaction is Rosetta Stone, by all means, is well welcomed and we look forward to their expansion. What I hope is that some of the views expressed by citizens at the Council meeting regarding this sale, such as requesting some of the community services that Rosetta Stone might be able to provide the community would be looked into and considered. This includes what they could do for our school systems in terms of the multi ethnic diversity we have in the City. I would like to reiterate that idea and encourage it.

Chairman Burden asked if there was any further discussion. Hearing none, he called for a voice vote on the motion to approve the rezoning request from M-1 to B-1. All voted in favor of the motion (6-0). Chairman Burden said this will move forward to City Council on March 10, 2009 with a favorable recommendation.

Ordinance Amendment – Home Occupations Added to R-5

Chairman Burden read the next two requests and said staff would present the two items together in one presentation.

Mr. Fletcher said City staff is requesting to modify the City's Zoning Ordinance by adding home occupations as a use permitted by right within the R-5, High Density Residential District. Recently, staff recognized that a home occupation is a use permitted by right in each residential district except for the R-5 category.

As a reminder, home occupations are defined as: *Any occupation or activity which is clearly incidental to the use of the premises for dwelling purposes and which is carried on wholly within a main building or accessory building by a member of a family residing on the premises, in connection with which there is no advertising on the premises, and no other display or storage or variation from the residential character of the premises, and in connection with which no person outside the family is employed and no equipment which is deemed to be in conflict with the intent of this definition. A home occupation shall not include beauty parlors, barber shops or doctors' or dentists' offices for the treatment of patients.* In other words, the dwelling and the physical lot should not be altered in any way that would distinguish it from being anything but a residential use. The general public should have no way of knowing there was a home occupation inside the dwelling because no signage is permitted and no clients, customers, patients, or employees can travel to and from the home. Also, to be clear, the uses listed in the definition as prohibited are only examples; many other occupations exist that would blatantly not be permitted. Furthermore, home occupations are administratively approved; there is no application fee or lengthy review process. More or less, the application is required for internal record keeping purposes and in case there are complaints or noticeable violations.

Staff deliberated why this use may have been purposely excluded from the R-5 category, but ultimately believed it was erroneously omitted during the creation of the R-5 district. The major uses within the R-5 district are townhouses and multiple family structures; as a comparison, both of those uses are permitted by right in the R-3 and R-4 district where home occupations are also allowed. Staff has no reason to believe this would cause detriment to the intent of the R-5 district.

Staff supports a favorable recommendation to City Council.

Ordinance Amendment – Sections 10-3-38, 10-3-42(c), and 10-3-182(c) (Two Family to Duplex)

Mr. Fletcher then said staff is requesting to modify Sections 10-3-38, 10-3-42 (c), and 10-3-182 (c) of the Zoning Ordinance by replacing the word "two family" with "duplex" where it appears in the text of those sections. As Planning Commission probably remembers, staff presented several ordinance amendments last month; two of those were separate but related modifications, one of which was renaming the definition of "Dwelling, Two Family" to "Dwelling, Duplex," and then, modifying numerous sections of the Zoning Ordinance where the term "two family" appeared, by replacing it with "duplex." Those amendments are on track to be heard and most likely to be approved by City Council this month. Unfortunately, staff overlooked these three sections where the term "two-family" appears in the text and would like to make the same changes as were submitted

last month. The sections include 10-3-38 Purpose of District (from the R-2 district), 10-3-42 Other Regulations (from the R-2 district), and 10-3-182 Other Regulations (from the U-R district).

Staff supports a favorable recommendation to City Council.

Chairman Burden asked if there were any questions for staff. Hearing none, he said he would open each public hearing separately. He then opened the public hearing for the ordinance amendment to add home occupations to the R-5, High Density Residential District, and asked if there was anyone wishing to speak regarding the proposed amendment. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Snell moved for a favorable recommendation to accept home occupations as a use by right in the R-5 zoning district.

Mr. Da'Mes seconded the motion.

Chairman Burden called for a voice vote on the motion.

All voted in favor (6-0) of the motion to approve the ordinance amendment.

Chairman Burden then opened the public hearing regarding the two-family to duplex language modification in the Zoning Ordinance and asked if there was anyone wishing to speak regarding the proposed amendment. Hearing none, he closed the public hearing and asked Planning Commission for discussion or a motion.

Mr. Chenault moved to approve the amendment to Sections 10-3-38, 10-3-42(c), and 10-3-182(c) replacing the term two-family with the term duplex.

Mr. Finks seconded the motion.

Chairman Burden called for a voice vote on the motion.

All voted in favor (6-0) of the motion to approve the ordinance amendment. Chairman Burden said these two amendments will move forward to City Council on March 10th with a favorable recommendation.

Unfinished Business

None.

Public Input

None.

Report of secretary and committees

Mrs. Banks said the Zoning Inspectors visited the Purcell Park sector of the City this month. If you notice they had fewer violations this cycle than they did the previous two cycles. Next month, inspectors will be in the Park View sector of the City.

Mr. Baugh said at City Council last night we acted on several ordinance amendments which all passed unanimously, including the creation of the MX-U, Mixed Use Zoning classification. I know I have said this before, but one more time for what it is worth, thanks to all the folks on this body and staff who put that together.

Other Matters

Review of 2008 Annual Reports

Chairman Burden asked if there were any questions regarding the 2008 Annual Reports, which were included in the packets. Hearing none, he asked for a motion to move the 2008 Planning Commission Annual Report forward to City Council.

Mr. Snell said it was a busy year last year and he moved to submit this report to City Council for their acceptance as our activities in 2008.

Mr. Chenault seconded the motion.

Chairman Burden called for a voice vote.

All voted in favor of the motion (6-0) for a favorable recommendation to City Council.

Nomination of a Commissioner to the BZA for City Council's consideration

Chairman Burden said the next item is to nominate a member of the Planning Commission to be on the Board of Zoning Appeals.

Mr. Baugh said let me weigh in on this immediately; City Council is not asking for a nomination from this body at this time. Last night the City Attorney really pushed the point of a nominee; had we waited until tonight to nominate someone then City Council would not act on it until March, which was pushing the time too much for his satisfaction. Therefore, given some of our informal discussions on this matter, I have the pleasure of saying that Council acted on this matter last night and Mr. Da'Mes is approved as the Planning Commission representative on the BZA.

Adjournment

The meeting was adjourned at 7:40 p.m.

Chairman Jared Burden

Secretary, Alison Banks